

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X Case No.: 08 CV 04045 (FB)(LB)

ROY DEN HOLLANDER,

Plaintiff,

**DECLARATION OF
DIANE KREBS, ESQ.**

v.

DEBORAH SWINDELLS DONOVAN, PAUL W.
STEINBERG, and JANE DOE,

Defendants.

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Diane Krebs, an attorney duly admitted to practice in the State of New York, hereby affirms the following under the penalty of perjury:

1. I am a partner with the law firm of Gordon & Rees LLP, counsel for Defendant Deborah Swindells Donovan ("Donovan"). As counsel for Donovan, I am fully familiar with the facts set forth herein. This Declaration is submitted in support of Donovan's motion for summary judgment pursuant to Fed. R. Civ. P. 56.
2. During the pre-motion conference in this case on February 6, 2009, Plaintiff admitted to the Court, in my presence, that he had posted all six essays on the Internet in the past for anyone to view.
3. I viewed "A Different Time," an essay apparently authored by Plaintiff, by accessing it on his MySpace Internet page on March 9, 2009. A true and correct copy of "A Different Time" as it appeared on Plaintiff's MySpace Internet page is annexed hereto as Exhibit 1.
4. Annexed hereto as Exhibit 2 is a true and correct copy of the Order of United States District Judge Lewis A. Kaplan, dated April 23, 2009, in *Hollander v. Institute for*

Research on Women & Gender at Columbia Univ., 08-Civ-7286 (LAK)(KNF) (S.D.N.Y. Dec. 1, 2008).

5. Annexed hereto as Exhibit 3 is a true and correct copy of *Freelance Photographers v. Associated Press*, No. 97 Civ. 2267 (DLC), 1997 WL 759456 (S.D.N.Y. Dec. 10, 1997).

6. Annexed hereto as Exhibit 4 is a true and correct copy of *Corbis Corp. v. UGO Networks, Inc.*, 322 F. Supp. 2d 520 (S.D.N.Y. 2004).

7. Annexed hereto as Exhibit 5 is a true and correct copy of *Noble v. Town Sports Intern., Inc.*, No. 96 CIV. 4257(JFK), 1998 WL 43127 (S.D.N.Y. Feb. 2, 1998).

8. Annexed hereto as Exhibit 6 is a true and correct copy of *Tabachnik v. Dorsey*, No. 04 Civ. 9865 (SAS), 2005 WL 1668542 (S.D.N.Y. July 15, 2005).

9. Annexed hereto as Exhibit 7 is a true and correct copy of *Tabachnik v. Dorsey*, 257 Fed. Appx. 409 (2d Cir. 2007).

10. Annexed hereto as Exhibit 8 is a true and correct copy of *Caldwell v. Rudnick*, No. 05 Civ. 7382 (NRB), 2006 WL 2109454 (S.D.N.Y. July 26, 2006).

11. Annexed hereto as Exhibit 9 is a true and correct copy of *Video-Cinema Films, Inc. v. Cable News Network, Inc.*, No. 98 CIV. 7128IBSJ, 98 CIV. 7129 (BSJ), 98 CIV. 7130 (BSJ), 2001 WL 1518264 (S.D.N.Y. Nov. 28, 2001).

12. Annexed hereto as Exhibit 10 is a true and correct copy of *Shell v. Devries*, No. Civ. 06-CV-00318-REB, 2007 WL 324592 (D. Colo. Jan. 31, 2007).

13. Annexed hereto as Exhibit 11 is a true and correct copy of *Shell v. Devries*, No. Civ. 06-CV-00318-REB, 2007 WL 1701715 (D. Colo. June 11, 2007).

14. Annexed hereto as Exhibit 12 is a true and correct copy of *Credit Sights, Inc. v. Ciasullo*, No. 05 CV 9345 (DAB), 2008 WL 4185737 (S.D.N.Y. Sept. 5, 2008).

15. Annexed hereto as Exhibit 13 is a true and correct copy of *Morriseau v. DLA Piper*, No. 06 Civ. 13255 (LAK), 2007 WL 4292030 (S.D.N.Y. Dec. 3, 2007).

16. Annexed hereto as Exhibit 14 is a true and correct copy of *Morriseau v. DLA Piper*, 532 F. Supp. 2d 595 (S.D.N.Y. 2008), No. 08-0697-cv, 2009 WL 4432374 (2d Cir. 2009).

Dated: New York, New York
December 18, 2009



Diane Krebs (DK 8280)